

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:

Pekka VALLITTU et al.

Serial Number: 10/557,822

Group Art Unit: 3732

Filed: November 23, 2005

Examiner: Mai, Hao D.

For: A MATRIX BAND

SUPPLEMENTAL REQUEST FOR RECONSIDERATION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

May 27, 2008

Sir:

In supplemental response to the Official Action mailed November 28, 2007, a Request for Continued Examination and a Petition for Extension of Time being submitted herewith, please reconsider this application in view of the following remarks. Claims 1-9 and 16-19 are pending, although claims 16-19 have been withdrawn from further consideration.

The points made in the Request for Reconsideration filed March 28, 2008 ("Request") are repeated and incorporated by reference herein. This Supplemental Request is directed to the Advisory Action mailed May 5, 2008.

The 35 U.S.C. § 103(a) rejection of claims 1-7 over U.S. Patent No. 6,186,790 to Karmaker et al. in view of newly-cited U.S. Patent No. 6,234,793 to Brattesani et al. is traversed. The

claimed matrix band comprises fibers and a matrix, at least a portion of the matrix being at least partially uncured, with the matrix band having a thickness ranging from 0.05 to 1.5 mm. The matrix band is not removed from the patient's mouth once the dental restorative has been polymerized (Specification, page 3, lines 29-32).

The cited combination of references fails to raise a prima facie case of obviousness against the claimed matrix band. One of ordinary skill in the art has no motivation, suggestion or apparent reason to fabricate Karmaker et al.'s partially uncured composition into a matrix band (which is conventionally removed from a patient's mouth upon completion of a dental procedure). Instead, Karmaker et al. teaches prefabricating its composition into structural components and dental appliances intended to remain in a patient's mouth, such as orthodontic retainers, bridges, space maintainers, crowns, posts, implants, abutments and connectors, etc. (Abstract).

The Advisory Action's argument that Karmaker et al.'s pre-shaped component is "capable of taking the shape of a matrix band" is based on hindsight. Just because something *may* be "capable of" being shaped into a matrix band does not mean Karmaker et al.

provides one of ordinary skill in the art with any suggestion, motivation or apparent reason to do so.

The Advisory Action cites no support for its argument that "matrix band" can "broadly be interpreted as space maintainers, splints, crowns, partial crowns, jackets, inlays, onlays, facings, veneers, etc." Such an interpretation of "matrix band" is unreasonably broad because it encompasses every type of dental appliance without limitation.

The Advisory Action's argument that Karmaker et al.'s preshaped component is "capable of" being removed from the patient's mouth is also unpersuasive. First, the claimed matrix band is not removed from the patient's mouth, unlike conventional bands. Second, Karmaker et al. discloses ready-to-use preshaped prefabricated cured structural components for fabrication into dental appliances (Abstract). One of ordinary skill would understand these dental appliances will be permanently fixed in the patient's mouth. Karmaker et al. does not provide any motivation, suggestion or apparent reason to modify its disclosure by removing dental appliances from the patient's mouth.

Brattesani et al. is cited merely to show typical thicknesses of a matrix band, and fails to provide any motivation or suggestion

to fabricate Karmaker et al.'s partially uncured composition into a matrix band. Instead, Brattesani et al. discloses textured metal matrix bands which have a smooth interior surface and an exterior surface having at least a portion which is configured to provide increased friction. Moreover, one of ordinary skill in the art would not consider fabricating a deformable (partially uncured) composition (such as the Karmaker et al. composition) into a matrix band because it might be difficult to maintain the band's desired shape and position during tooth repair, particularly when used with dental wedges such as those illustrated in Brattesani et al. See, for example, Figs. 1 and 16F. In short, those of ordinary skill in the art would not have a reasonable expectation that a partially cured matrix band could successfully maintain its shape and position within a patient's mouth during a dental procedure.

Reconsideration and withdrawal of the obviousness rejection of claims 1-7 over Karmaker et al. in view of Brattesani et al. are earnestly requested.

The 35 U.S.C. § 103(a) rejection of claims 8 and 9 over Karmaker et al. in view of Brattesani et al., further in view of U.S. Patent No. 4,433,960 to Garito et al., is traversed for the same reasons set forth in the Request. Reconsideration and

withdrawal of the obviousness rejection of claims 8 and 9 are earnestly requested.

It is believed this application is in condition for allowance. Reconsideration and withdrawal of all rejections of claims 1-9, and issuance of a Notice of Allowance directed to those claims, are earnestly requested. The Examiner is requested to telephone the undersigned should she believe any further action is required for allowance.

The fees for the RCE and Petition for Extension of Time are being paid electronically today. It is not believed any additional fee is required for entry and consideration of this Supplemental Request. Nevertheless, the Commissioner is requested to charge Deposit Account No. 50-1258 in the amount of any such required fee.

Respectfully submitted,

/James C. Lydon/

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Enclosures:
Petition for Extension of Time
Request for Continued Examination